

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

JAMES ROWE

Petitioner,

v.

NATHANIEL QUARTERMAN, Director
Texas Department of Criminal
Justice, Institutional Division,

Respondent.

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CIVIL ACTION NO.
3:07-CV-1963-P

ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

This is a *pro se* petition for habeas corpus brought pursuant to 28 U.S.C. § 2254 by a state prisoner. The magistrate judge filed his Findings, Conclusions and Recommendation on July 23, 2008 recommending that the petition be dismissed as time-barred. On August 4, 2008, petitioner filed a Motion for Leave to Dismiss without Prejudice so he could return to state court to exhaust his remedies. Petitioner does not address the magistrate judge's conclusion that this case is subject to dismissal with prejudice as time-barred.

After reviewing the magistrate judge's findings and conclusions, the court agrees that this case is time-barred. As such, it would be futile to allow petitioner to dismiss without prejudice to exhaust his state remedies. Therefore, the court denies petitioner's motion to dismiss and accepts the Findings, Conclusions and Recommendation of the magistrate judge.

Signed this 18th day of August 2008.



JORGE A. SOLIS
UNITED STATES DISTRICT JUDGE